

# Exhibit 123

Re: [Fwd: Incorrect Charts]

**Subject:** Re: [Fwd: Incorrect Charts]

**From:** Kate Fensterstock <Katherine.Fensterstock@noaa.gov>

**Date:** Thu, 05 Feb 2009 10:46:21 -0500

**To:** mark sanders <msanders@westpointharbor.com>

Mark,

In addition to the GPs for the aids in Westpoint Channel, would you please provide us with the recent post-dredge survey that you mentioned? If not, I may be able to use a reported depth of 9', but it will be charted more accurately with a survey. Also, do you have any as-builts or drawings of the basin with control points? The drawing that we have on file with the ACE permit is not sufficient for charting because it lacks control. It would be great if the drawings included all the docks that have been completed to date. You may make a comment on the drawing detailing which have been completed.

We are not able to use Google imagery for non-hardscape features, such as shoreline, and if the available Google imagery doesn't show all docks, we won't be able to chart them without drawings from you.

Since both the ENC and the paper chart are to be released relatively soon, I am trying hard to get a document made that will get Westpoint Channel and Harbor accurately charted in time. Thanks!

Kate

mark sanders wrote:

Thanks Kate,

I will try to find time to give you lat/long positions for all the new buoys in Westpoint Channel in case that will be of use.

mark

Kate Fensterstock wrote:

A new edition ENC for this area (US5CA16M) should be posted in the next couple of months. I wasn't able to get a more definitive time frame on that one either, but a special request has been made by our Hydrographic Services Division (they're the ones who do NOAA surveys) to have a new edition posted, so it will definitely be happening. Keep your eyes peeled.

Kate

mark sanders wrote:

That's great Kate. As part of that process are the electronic charts in GPS devices updated too?

Kate Fensterstock wrote:

Mark,

I wanted to let you know that I have received confirmation that chart 18651 will be charted this year, most likely this summer. I'll keep you posted about the other changes. Thank you for sending the information.

Kate

mark sanders wrote:

Thank you very much for responding so quickly Kate, and here are responses to your questions.

\*Who maintains the channel:\*

Westpoint Channel is in the "sphere of influence" of the Port of Redwood City, and the Port has a long dock just inside the SW entrance of the channel (not currently in use). Perhaps more important, this part of Westpoint Channel is the planned site for the San Francisco Ferry Service, which is being extended to Redwood City in the South Bay. So in the past Westpoint Slough has been maintained by the Port, but its been a long time. More recently the

"Aqua Terra" project (in cooperation with the DBW) cleared all the wrecks out of the channel, and this year I was able to dredge the entrance to the channel as explained in my letter. Going forward, there has been discussions with the Port, ACE and other agencies as part of the Bay Planning Coalition to expand the Port definition to include the entrance to Westpoint Slough as part of the ACE maintenance dredging program. In the meantime Westpoint Harbor has done the clearing, marking and dredging.

**\*Aids to Navigation:\***

Included in the various permits required for Westpoint Harbor was marking the channel, as well as marking Greco Island as a wildlife refuge. Both have been completed and there are 8 Can and Nun buoys marking the channel. The last survey I have for Westpoint Channel is almost ten years old (when I first received the ACE Permit), plus a recent post-dredge survey of the entrance. I can report the channel is clear of the shoal areas shown on NOAA charts, but certainly a new survey should be done.

**\*Shoreline charting:\*** I am attaching a few recent aerial photos showing the shoreline. Photo 052 shows the area looking SE, and includes Westpoint Harbor and the end of Westpoint Slough as it turns into First Slough. Photo 073 looks NW and shows Westpoint Slough as it joins Redwood Creek out to the Bay. The newest Google maps are accurate, but do not show all the docks.

**\*Completion:\***

All work in Westpoint Channel is complete, as is the basin excavation and rip rap. There are more docks to be installed, and the boatyard and retail buildings are yet to come. I believe everything is complete insofar as will be shown on NOAA charts.

I hope that helps Kate. As I mentioned, now that we have a lot of traffic in Westpoint Slough its becoming urgent that the charts be correct.

Best regards

mak

Kate Fensterstock wrote:

Mr. Sanders,

Thank you for contacting us regarding Westpoint Channel and Westpoint Harbor Marina. I understand that you are frustrated and I am investigating the corrections you recommend as expeditiously as possible. Also, we are currently undergoing an overhaul of our USACE Permit database and procedures, which will hopefully prevent some of the issues you have experienced from recurring in the future.

Could you please tell me if Westpoint Channel is privately maintained? I do not see any information from the USACE or the USCG (for aids) regarding that specific waterway. We have recent USACE surveys for Redwood Creek, but not Westpoint Slough. If it is privately maintained and you have a survey for the area, please send it along. In addition, if you have any survey information (with control points) from the dredges performed in 2005-2006, we may be able to move forward with charting the basin itself.

**Subject:** Re: [Fwd: Incorrect Charts]

**From:** mark sanders <msanders@westpointharbor.com>

**Date:** Wed, 28 Jan 2009 12:56:59 -0800

**To:** Kate Fensterstock <Katherine.Fensterstock@noaa.gov>, msanders@westpointharbor.com, mgiari@redwoodcity.org

Thank you very much for responding so quickly Kate, and here are responses to your questions.

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Westpoint Channel is in the "sphere of influence" of the Port of Redwood City, and the Port has a long dock just inside the SW entrance of the channel (not currently in use). Perhaps more important, this part of Westpoint Channel is the planned site for the San Francisco Ferry Service, which is being extended to Redwood City in the South Bay. So in the past Westpoint Slough has been maintained by the Port, but its been a long time. More recently the "Aqua Terra" project (in cooperation with the DBW) cleared all the wrecks out of the channel, and this year I was able to dredge the entrance to the channel as explained in my letter. Going forward, there has been discussions with the Port, ACE and other agencies as part of the Bay Planning Coalition to expand the Port definition to include the entrance to Westpoint Slough as part of the ACE maintenance dredging program. In the meantime Westpoint Harbor has done the clearing, marking and dredging.

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Also, our cartographers are in the process of charting updated shoreline for that area. Unfortunately, the imagery pre-dates the creation of the basin, but it will address the removal of the bar that you mentioned. Shoreline compilation is a time-consuming process and often takes a number of years to go from imagery capture to charted product.

Our office received a completion report from you stating that you expect to complete the work in June 2009. Is that correct? We are not able to chart the marina until we receive word that the project is completed and have adequate as-builts. The USACE permit we have on file does not provide adequate information for charting the marina once complete.

Please let me know if you are able to provide us with any survey or as-built information. I will be in touch regarding the chart updates. We appreciate your input.

Sincerely,

Kate Fensterstock  
Nautical Data Branch  
Office of Coast Survey, National Ocean Service  
NOAA

----- Original Message -----

Subject: Incorrect Charts

Date: Fri, 23 Jan 2009 12:49:21 -0800

From: mark sanders <msanders@westpointharbor.com>

To: OCS.NDB@noaa.gov, msanders@westpointharbor.com

Dear Sirs:

I just received and completed the NOAA questionnaire regarding Westpoint Harbor in Redwood City, California.

Over the last several years I have discussed with NOAA major changes regarding Westpoint Slough, which is the channel to the new marina. The latest NOAA charts for this area are still years out of date despite updated information sent to your offices. In summary here are changes to your chart 18651:

There were many wrecks in Westpoint Channel, some of which are shown on 18651. These were cleared out in the late 1990's (part of the "Aqua Terra" project). More importantly with their removal the channel scoured itself, and the shoals in Westpoint Slough as shown on the chart are gone. The last part of this process is associated with ACE Permit 22454S, which removed a bar at the entrance to Westpoint Slough from Redwood Creek. At this point all of Westpoint Slough is dredged to 9 feet or better and is completely clear of obstructions, and has new buoys marking the channel.

Westpoint Harbor created a new marina basin of 26 acres, making it the largest marina in the South San Francisco Bay. This basin was excavated and completed in 2006, but charts still show it as land. Now that the new harbor is open (a big-boat harbor for vessels up to 120 feet), its important that the charts correctly show the channel and harbor basin.

Your attention to this would be appreciated...its becoming a confusing issue for boats as the marina fills up.

Thanks and best regards,

Mark Sanders  
Westpoint Harbor  
650 224 3250

[www.westpointharbor.com](http://www.westpointharbor.com)





